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Senate

The Senate met at 10 a.m. and was called to order by the Honorable JACKY ROSEN, a Senator from the State of Nevada.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Mighty God, in turbulent times throughout our history, You have answered us. Answer us again. Save and strengthen the Ukrainian people. Lord, deliver them from their peril. Grant them the desires of their hearts, and make their plans succeed. May they shout for joy when they receive Your answers to their many prayers.

Today, continue to provide our lawmakers with the wisdom to accomplish Your purposes on Earth. May they refuse to boast about their strength but, instead, boast about Your matchless might.

And, Lord, we thank You for the life and legacy of former Secretary of State Madeleine Albright.

We pray in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The Presiding Officer led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. LEAHY).

The senior assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 24, 2022.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JACKY ROSEN, a Senator from the State of Nevada, to perform the duties of the Chair.

PATRICK J. LEAHY,
President pro tempore.

Ms. ROSEN thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

LEGISLATIVE SESSION

AMERICA CREATING OPPORTUNITIES FOR MANUFACTURING, PRE-EMINENCE IN TECHNOLOGY, AND ECONOMIC STRENGTH ACT OF 2022—Resumed

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 4521, which the clerk will report.

The senior assistant legislative clerk read as follows:

A bill (H.R. 4521) to provide for a coordinated Federal research initiative to ensure continued United States leadership in engineering biology.

Pending:

Schumer amendment No. 5002, in the nature of a substitute.

Schumer amendment No. 5003 (to amendment No. 5002), to change the enactment date.

Schumer amendment No. 5004 (to amendment No. 5003), to change the enactment date.

Schumer amendment No. 5005 (to the language proposed to be stricken by amendment No. 5002), to change the enactment date.

Schumer amendment No. 5006 (to amendment No. 5005), to change the enactment date.

Schumer motion to commit the bill to the Committee on Commerce, Science, and Transportation, with instructions to report back forthwith, Schumer amendment No. 5007, to change the enactment date.

Schumer amendment No. 5008 (to the instructions of the motion to commit (amendment No. 5007)), to change the enactment date.

Schumer amendment No. 5009 (to amendment No. 5008), to change the enactment date.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

BUSINESS BEFORE THE SENATE

Mr. SCHUMER. Madam President, well, it was another busy and productive evening here on the Senate floor. Yesterday, we confirmed another six judges to important positions on the Federal bench and all of them, I am happy to say, with bipartisan support. We now have confirmed 56—56—judges under this Democratic Senate majority, and I thank my colleagues for their patience and for keeping the pace moving here on the floor last night.

There are two judges I am especially proud to have confirmed. First, we confirmed Hector Gonzalez to serve as a district judge for the Eastern District of New York. Mr. Gonzalez is a most deserving, most qualified, and most inspiring individual to serve as a judge. Born in Cuba, raised in Queens, he is the embodiment of the American dream.

We also finally confirmed a judge who has inspired me for more than a decade—Ali Nathan, now confirmed as circuit judge for the Second Circuit. When I first met her, I thought, “Here is someone who is truly special,” and I still believe that to this day. And, to boot, she increases the diversity of the court as only the second-ever openly

● This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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lesbian to sit on the Second Circuit—open lesbian on the Second Circuit. I believe that is in the whole Federal judiciary. We will check that.

The Second Circuit is one of the most consequential courts in the entire country, calling for only the best of the best to sit on the bench, and Ali Nathan fits the bill.

I am glad both of these nominees were confirmed with bipartisan support.

On the legislative front, the Senate is pressing ahead on bipartisan competition legislation to lower costs, boost American manufacturing, and fuel another generation of American scientific ingenuity.

For the information of all Senators, last night, I moved to file cloture on both the substitute amendment and the underlying legislation for our competitiveness legislation. As I have said previously, our plan has been to take up the House-passed version of this legislation and amend it with the exact same language the Senate approved last summer with bipartisan support, the U.S. Innovation and Competition Act.

Once we pass this amended bill, it will go back to the House, and they will be able to request a conference committee. As convoluted as the Senate process often is, the bottom line is that the train is moving forward when it comes to this bill.

A lot of Senators from both parties have worked for years to see legislation like this reach the President's desk. If the United States is to thrive in the 21st century, we need to keep our competitive edge in science and innovation, and this bill would do just that. We must continue growing American jobs. We must continue to lower the price of critical technologies like semiconductors, and this bill would do just that as well.

We have a few more steps to take before we reach a conference, but support of this bill is strong and bipartisan, and the process is moving forward.

RUSSIA

Madam President, on PNTR, negotiations are continuing on passing bipartisan legislation to strip Russia of permanent normal trade relations with the United States. This legislation is greatly needed and timely as President Biden continues meeting with European allies regarding Putin's despicable war on Ukraine.

The House passed PNTR by 424 to 8—and the Senate absolutely should pass it with equally strong bipartisan support. There is no justification to delay a popular policy that would deal a heavy, heavy blow on Putin's Russia, especially given that it got such strong Republican support, including from Leader MCCARTHY in the House.

Yesterday, I am happy to say, my team and I had a productive series of talks with Senators CRAPO, WYDEN, MANCHIN, and the White House. We reached an agreement with Senator

CRAPO to move forward on PNTR as soon as we can, while addressing oil ban legislation separately. That way, the PNTR legislation can go right to the President's desk.

I hope the rest of my colleagues will get with the program quickly so we can send PNTR legislation to the President's desk as soon as possible. We need a little more work, but we are close to passing this urgent legislation.

NOMINATION OF KETANJI BROWN JACKSON

Madam President, finally, on SCOTUS, after 3 marathon days of speeches and questions and answers, Judge Jackson's public testimony before the Senate Judiciary Committee has concluded.

After watching the judge weather 3 long days before the Senate Judiciary Committee, my respect and my admiration for her have never been higher. There is not a shred of doubt in my mind that she merits confirmation to the U.S. Supreme Court.

Once again, a handful of Members on the other side—not all, just a handful—tried to smear the judge with misleading and downright false accusations. Once again, the judge remained poised, thoughtful, and strong in her answers.

As Senator BOOKER said yesterday, no amount of cynicism and nastiness could overshadow that Judge Jackson's nomination is a cause for celebration. She is not only a historic nominee; she is one of the most qualified nominees to ever come before the Judiciary Committee.

Yesterday, Chairman DURBIN announced that the Judiciary Committee will meet on Monday afternoon to begin the process of reporting Judge Jackson's nomination out of committee. There is nothing in Judge Jackson's record suggesting that the committee should have difficulty reporting her nomination out. Once the committee concludes its work, I will move to have her nomination come to the floor in short order. The Senate is on track to have Judge Jackson confirmed as Justice Jackson by the end of this work period.

I commend Judge Jackson for her excellent testimony over the course of this week. It is not easy to endure 3 days of testimony with the entire Nation watching, but Judge Jackson has erased any doubt that she is brilliant, she is beloved, and she belongs—unquestionably belongs—on the U.S. Supreme Court.

I yield the floor.

I suggest the absence of a quorum.

THE ACTING PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

THE ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The Republican leader is recognized.

NOMINATION OF KETANJI BROWN JACKSON

Mr. MCCONNELL. Madam President, yesterday, I said I hoped the second day of Judge Jackson's responses would provide more clarity on some vital questions. Unfortunately, the nominee's answers trended the other way. Regarding the Court as an institution, the nominee continued to reject the examples of Justices Ginsburg and Breyer. She refused to denounce partisan Court packing. On judicial philosophy, the judge continued to deflect actually basic questions.

The lack of candor is especially troubling since the President sent us a nominee with no meaningful written record on constitutional matters. For more than 8 of Judge Jackson's 9 years on the Federal bench, she was a trial judge on the district court. As the nominee herself explained on Tuesday, that role neither requires a particular talent for constitutional interpretation nor gives judges much of a chance to exhibit one. She deflected a question about judicial philosophy by explaining that such questions do not often occur to her on the lower court.

District court records alone shed little light on what kind of Supreme Court Justice someone might be.

Now, Judge Jackson's current post on the DC Circuit is a much closer analog. The problem is, she has held that position for less than a year and has only published two opinions. Justice Gorsuch had authored 212 circuit court opinions before he was nominated to the Supreme Court. Justice Kavanaugh had written 306. Senators had an unbelievable wealth of writings to examine. As to Justice Barrett, in just 3 years on the Seventh Circuit, she had already written 91 appellate opinions, not to mention her many academic writings on constitutional law. Judge Jackson has written a total of two circuit court opinions—just two.

The only real body of evidence before the Senate is her record as a trial judge. Like I mentioned, those rulings communicate very little about the judge's approach to big-picture questions of interpretation. But to make matters worse, Judge Jackson declined to answer basic questions about those rulings. Senators asked about clear patterns in the judge's criminal sentencing decisions. The nominee deflected by saying every case is unique. So Senators tried to examine one case at a time. Then the nominee said she couldn't recall details. So Senators tried to supply the details. Then the nominee stonewalled and said no one case can fully capture a judge's record.

This made up an endless circle of evasion. Judge Jackson wouldn't address broad patterns in her rulings because she said it was unfair—unfair—for Senators to zoom out, and she wouldn't discuss specific cases because she said it was unfair for Senators to zoom in.

Since the only real body of evidence before the Senate is Judge Jackson's trial records, Senators asked why she consistently opposed weak sentences for certain crimes.

The nominee then ducked the question over and over. She blamed Congress for giving her that discretion in the first place. Both the nominee and then Chairman DURBIN kept repeating that if Senators wanted to guarantee harsher penalties, we could mandate them.

That is true, but it is a non sequitur. Senators wanted to know why Judge Jackson used the discretion she actually did have in the specific ways she chose to use it. The Senators were trying to understand what this nominee does with discretion when she has it.

But, again, the nominee would not answer. She kept blaming the mere existence of her discretion for her decisions to go soft on criminals, when she could have just as easily used that discretion to be tough. We basically had a nominee saying that: If Senators want me to be tough on crime, you will have to change the laws to force me—force me—to do it.

In several egregious instances, from child exploitation to fentanyl trafficking, the nominee used especially unusual and creative legal moves that stretched the bounds of the judicial role. In the nominee's own words, she simply has a "policy disagreement" with parts of the sentencing law.

Evidently, the judge's personal policy views change how she applies the law.

Finally, I understand some Democratic Senators held a press conference yesterday to complain that Republicans' questions were too tough.

Of course, nobody could have less credibility to police the fine details of confirmation hearings than our Democratic colleagues on the Judiciary Committee. The last 48 hours were a dry and friendly legal seminar compared to the circus that Democrats inflicted on the country just a few years back.

The American people know it is not asking too much to ask a Federal judge legal questions about her record. I just wish the Senate had gotten more answers.

UKRAINE

Madam President, now on a different matter, today, President Biden is overseas meeting with America's closest European allies as Vladimir Putin's war in Ukraine enters its second month.

He is engaging with a Europe that has been profoundly changed. NATO allies have watched a neighbor invaded by an aggressive Russia. Some, like Germany, are ending 30 years—30 years—of post-Cold War neglect for military modernization and energy security.

I am glad that, as I urged last week, the President's itinerary will include not just Western Europe, but also Poland. His presence on the eastern flank will send an important message. Of course, the most concrete way to support Ukraine is with greater commitments of lethal aid. Ukrainian forces can win this fight.

Let me say that again. Ukrainian forces can win this fight. But they need

more weapons, more ammunition, more fuel, and they need it all as fast as possible.

The allies and partners who are helping equip Ukraine also need replenishing their own arsenals. But the fight has highlighted shortcomings in both our current stockpiles of critical weapons and munitions and our industrial capacity to produce more quickly.

As other NATO members wake up to the importance of long-term investments in defense, America should lead by example. We have to meet the military requirements that come from being a superpower facing growing threats to our global interests: sustained increases in defense spending, deeper inventories of critical weapons systems and munitions, less redtape, work with industry to make our development and production systems more nimble.

This will not only help us meet the growing requirements of our military but also ensure we can be a reliable supplier of weapons and munitions to our allies and our partners.

As the Washington Post reported just yesterday, recent events have caught our defense industrial base napping.

Here is the quote from the Post:

[Weapons manufacturers weren't geared up to make antitank and antiaircraft arms at a wartime pace. While the United States had 13,000 Stingers in its stockpile before the invasion, there were no plans to produce more en masse . . . Militaries in Europe that have given their Stingers and antitank missiles to Ukraine now want to refill depleted stocks, creating competition for new units rolling off the assembly line.

So President Biden already has real power to address this himself. The Defense Production Act was created during a period of tense competition with Russia to bolster production of critical military supplies. The exact circumstance we are in right now.

Ironically, the far left has demanded the President invoke the Defense Production Act for everything but—everything but—its central purpose. They don't want to use the Defense Production Act to bolster defenses, but, rather, to force taxpayer money into renewable energy schemes that are not ready for prime time. Democrats should be using the Defense Production Act to literally produce more defenses, but they want, instead, to use it to spin up some more Solyndras.

Of course, the real solution for global energy concerns is not throwing money into finicky technologies that themselves rely on Russian and Chinese supply chains. It is to unshackle U.S. energy producers. We can help meet Europe's needs by increasing American crude and LNG exports, but our European friends will have to make necessary sacrifices to wean themselves off of reliance on Russia.

Putin's war of aggression reminds us the so-called international order is not self-enforcing. The relative Pax Americana that has lasted for the better part of a century does not—not—sustain itself automatically. American leadership remains in very high demand.

Putin's unprovoked war has further discredited the small pockets in both of our political parties who want America to pull back from the world stage, who excuse the behavior of tyrants, who think it would be prudent and sensible to cede vast spheres of influence to Russia and China. There is nothing remotely prudent or sensible about handing over entire regions of the world to these thugs.

The national security interests of the United States have never stopped at our own borders, and they certainly do not today. We are a superpower with worldwide interests requiring a worldwide presence and a worldwide network of allies and partners. American power will not preserve itself. American security will not protect itself. American interests will not uphold themselves. And America's partners will not lead themselves.

This awesome responsibility falls on the shoulders of the President of the United States, the leader of the free world. President Biden has an opportunity as soon as he returns from Europe to begin charting the right course for America and the West.

On Monday, his administration will submit his budget request for the next fiscal year. We will see if the President finally commits to investing in a future of strong American leadership.

Our global challenges are not partisan issues; they are American issues. I sincerely hope that the Commander in Chief of our Armed Forces submits a defense budget request that reflects this reality.

The world is dangerous and getting smaller. America must not shrink from the challenge, but rise and meet it.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. THUNE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BORDER SECURITY

Mr. THUNE. Madam President, the Biden border crisis continues.

In February, U.S. Customs and Border Protection encountered 164,973 individuals attempting to cross our southern border illegally—a 63-percent increase from a year ago and the highest February number in more than 20 years. Border encounters in February over the past decade or so have generally been low, with numbers far under 100,000—but not since President Biden was inaugurated. Almost from the day the President took office, our Nation has been experiencing an unprecedented border surge.

In fiscal year 2021, the Border Patrol encountered more than 1.7 million individuals attempting to cross our southern border—the highest number ever recorded. We have had 12 straight months of border encounters in excess

of 150,000. And these numbers only reflect individuals the Border Patrol has succeeded in apprehending. There is no question that many other illegal immigrants have crossed the border in the past year without being apprehended and have disappeared into the United States.

The situation at our southern border is out of control—it is a security crisis, it is a humanitarian crisis, and it is an enforcement crisis. Our Border Patrol officers have done heroic work this past year, but they are stretched incredibly thin and are having to spend too much time caring for migrants and not enough time patrolling the border.

This sharply increases the risk that dangerous individuals—from terrorists to drug smugglers to human traffickers—will slip across our southern border and into the country unnoticed.

And apart from the serious security concerns that go along with not knowing who is entering our country, allowing this border crisis to continue also presents serious humanitarian concerns. There is nothing compassionate about encouraging individuals to undertake the dangerous journey to our southern border, to run the risk of exploitation and disease and exposure. Unfortunately, neither humanitarian nor security concerns have moved President Biden to meaningfully address this border crisis.

Every month, we see massive numbers of individuals attempting to cross our southern border, and every month, the White House just doesn't seem to care. The President travels regularly, including regular weekends away from the White House, but he can't seem to bring himself to visit the border and see the situation firsthand.

It is a disturbing abdication of responsibility from the man charged with defending our Nation's security. And let's remember, the President isn't just ignoring this border crisis; he is partly, if not largely, responsible for it. Immediately upon taking office, the President took steps that weakened our Nation's border security.

On his first day in office—very first day in office—President Biden rescinded the declaration of a national emergency at our southern border. He halted construction of the border wall. And he revoked a Trump administration order that called for the government to faithfully execute our immigration laws—all on the first day.

And the President's Department of Homeland Security also issued guidelines that same day pausing deportations except under certain conditions.

The effect of all this was to declare to the world that the United States borders were effectively open. And Border Patrol numbers ticked up accordingly, not surprisingly.

And the President's anti-border security efforts didn't end there. The President has significantly limited the ability of Immigration and Customs Enforcement and Customs and Border Protection to enforce immigration

laws. Deportations dropped precipitously during fiscal year 2021, as did arrests in the interior of the country. And earlier this week, the administration rescinded a 2019 rule expanding expedited removal for individuals here illegally.

The administration is also, reportedly, expected to end its title 42 COVID-19 restrictions, which have provided for the immediate deportation of those who have crossed the border illegally. The result is almost guaranteed to be an even larger surge at our southern border, taking the situation from disaster to utter catastrophe.

One media outlet reports that “Department of Homeland Security intelligence estimates that perhaps 25,000 migrants already are waiting in Mexican shelters just south of the border for Title 42 to end.”

And there is no sign—no sign—that the administration has any substantive plan for how to deal with the resulting surge or how to deal with the enhanced criminal activity from drug smuggling to human trafficking that would likely accompany this influx.

I get that President Biden would prefer to pretend that this crisis at our southern border does not exist, but it does exist, and as President, he has the responsibility to address it. He needs to get serious about fulfilling that duty for the sake of our Nation's security and for the sake of all those who are being encouraged by his lax immigration policies to undertake the dangerous journey to our southern border.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WARNER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. ROSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to resume consideration of the Luger nomination, which the clerk will report.

The legislative clerk read the nomination of Andrew M. Luger, of Minnesota, to be United States Attorney for the District of Minnesota for the term of four years.

VOTE ON LUGER NOMINATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the Luger nomination?

Ms. ROSEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Pennsylvania (Mr. CASEY), the Senator from West Virginia (Mr. MANCHIN), and the Senator from New Hampshire (Mrs. SHAHEEN) are necessarily absent.

Mr. THUNE. The following Senator is necessarily absent: the Senator from Louisiana (Mr. CASSIDY).

The result was announced—yeas 60, nays 36, as follows:

[Rollcall Vote No. 107 Ex.]

YEAS—60

Baldwin	Heinrich	Reed
Bennet	Hickenlooper	Romney
Blumenthal	Hirono	Rosen
Booker	Kaine	Rounds
Brown	Kelly	Sanders
Cantwell	Kennedy	Schatz
Cardin	King	Schumer
Carper	Klobuchar	Sinema
Collins	Leahy	Smith
Coons	Luján	Stabenow
Cornyn	Markey	Sullivan
Cortez Masto	Menendez	Tester
Duckworth	Merkley	Tillis
Durbin	Murkowski	Toomey
Ernst	Murphy	Van Hollen
Feinstein	Murray	Warner
Gillibrand	Ossoff	Warnock
Graham	Padilla	Warren
Grassley	Peters	Whitehouse
Hassan	Portman	Wyden

NAYS—36

Barrasso	Fischer	Moran
Blackburn	Hagerty	Paul
Blunt	Hawley	Risch
Boozman	Hoeven	Rubio
Braun	Hyde-Smith	Sasse
Burr	Inhofe	Scott (FL)
Capito	Johnson	Scott (SC)
Cotton	Lankford	Shelby
Cramer	Lee	Thune
Crapo	Lummis	Tuberville
Cruz	Marshall	Wicker
Daines	McConnell	Young

NOT VOTING—4

Casey	Manchin
Cassidy	Shaheen

The nomination was confirmed.

(Mr. WARNOCK assumed the Chair.)

The PRESIDING OFFICER (Mr. SCHATZ). Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session. The Senator from Kansas.

UKRAINE

Mr. MORAN. Mr. President, I have lent my voice with my colleagues here in the U.S. Senate many times, here on the Senate floor, and elsewhere back home in Kansas in condemnation of Vladimir Putin's attack, invasion, the death and destruction that his actions—his sole actions—have taken on the people of Ukraine. But those actions have consequences broader than just within the borders of the independent country of Ukraine. I want today to bring awareness to a pressing consequence coming out of this invasion, and that is hunger.

A month ago, Russia, the world's largest supplier of wheat, invaded Ukraine. Ukraine is the fifth largest